IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 805 of 1999

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KISHANRAO RAMCHANDRA PAWAR DEC. THRO'LEGAL HEIRS & REPS.

Versus

AHMOHAMMAD LAL MOHAMMAD (DELETED)

Appearance:

MR MTM HAKIM for Appellants

DELETED for Respondent No. 1

MR RAJNI H MEHTA for Respondent No. 3

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE M.H.KADRI

Date of decision: 12/02/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. This is an appeal under section 173 of the Motor Vehicles Act, 1988, at the instance of the heirs of the original claimant, challenging the judgement and award of the Motor Accident Claims Tribunal, Vadodara, in Motor Accident Claim Petition No.266/1991.

2. Appeal admitted. Mr. R.H. Mehta appears on behalf of respondent no.3-Insurance Company and waives service of notice in the appeal. On a joint request of learned counsel, this appeal is taken up for hearing today.

3. We have heard the learned counsel for the appellant and learned counsel for the respondent no.3-Insurance Company. As a result of the hearing and discussion, a consensus has been arrived at between the learned counsel to the effect that the court may determine the appropriate amount of compensation payable to the appellant in the light of the evidentiary material on record, without the necessity of recording reasons.

4. In the light of the aforesaid consensus, we have applied our mind to the facts of the case, perused the impugned judgement and award, heard the submissions of respective counsel, and have also referred to such evidentiary material on record to which our attention has been drawn.

5. As a result of this exercise, we are of the opinion that interest of justice would be served, keeping in mind the evidentiary material on record, by holding and directing that the appellants would be entitled to aggregate compensation in the sum of Rs.1,32,000/- (Rupees one lac thirty-two thousand only). However, the additional amount of Rs.24,192/-, which is awarded to the claimants by the present judgement and decree, shall bear interest at the rate of 9% per annum from the date of application till realisation. The impugned award is accordingly modified only to the aforesaid extent. It is clarified that the rest of the award stands confirmed.

6. This appeal is, therefore, partly allowed to the aforesaid extent with no order as to costs. Decree accordingly.

7. It is directed that the investment in fixed deposit as directed by the Tribunal in respect of the amount deposited earlier by the Insurance Company shall not be disturbed, but the interest accruing on such deposits may be withdrawn by the present appellant no.1/1. It is further directed that the amount which the Insurance Company may deposit with the Tribunal by virtue

of the present judgement and decree, shall be invested by the Tribunal in the names of the appellants by way of a fixed deposit with any nationalised bank, initially for a period of three years and shall be renewed by one year at a time until appellant nos.1/2 and 1/3 attain majority. The interest that may accrue on this deposit may be withdrawn by the appellant no.1/1.

8. On the request of learned counsel for the respondent Insurance Company, time of six weeks is granted from today to make the necessary deposit with the Tribunal in order to comply with the present judgement and decree.

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